

To: Lensink, Andy[Lensink.Andy@epa.gov]; Salo, Earl[Salo.Earl@epa.gov]
From: Rauchway, Jon
Sent: Mon 7/28/2014 5:53:29 PM
Subject: RE: conference call now

Andy and Earl:

MRAP 20 controls petitions for rehearing (text copied below). I think subsections 1(a)(ii)-(iii) could cover the scenario we discussed. This rule, along with the general provisions on amicus briefs in Rules 2 and 12 would appear to allow at least a motion for leave to submit an amicus brief on rehearing.

Rule 20. Petitions for rehearing.

(1) Criteria for petitions for rehearing.

(a) The supreme court will consider a petition for rehearing presented only upon the following grounds:

(i) That it overlooked some fact material to the decision;

(ii) That it overlooked some question presented by counsel that would have proven decisive to the case; or

(iii) That its decision conflicts with a statute or controlling decision not addressed by the supreme court.

(b) The clerk of the supreme court will not accept a petition for rehearing for filing if the supreme court orders that remittitur, peremptory writ, or judgment issue immediately.

(c) The clerk of the supreme court will not accept a petition for rehearing for filing after remittitur has issued or after the time for filing such a petition has expired in a proceeding filed under rule 14.

(d) Absent clearly demonstrated exceptional circumstances, the supreme court will not grant petitions for rehearing of its orders disposing of motions or petitions for extraordinary writs.

(e) Petitions for rehearing will not be argued orally.

(2) Timing.

(a) A party must file and serve a petition for rehearing within 15 days after the supreme court decision has been filed, unless the supreme court expressly shortens or enlarges the time by order.

(b) A party opposing the petition for rehearing shall have 15 days after the filing of the petition for rehearing in which to file and serve objections.

(c) Any motion for extension of time in which to file a petition for rehearing must be filed within the 15-day period for filing the petition for rehearing. The supreme court will grant extensions of time only upon a showing of unusual merit and in no event will grant an extension of time in excess of 15 days. The extension period will run from the date of the supreme court's order granting the extension.

(d) The clerk of the supreme court shall not accept reply briefs for filing.

(3) Length. The text of the petition for rehearing and objections thereto shall not exceed 2,500

words if proportionately spaced or 10 pages if prepared in monospaced typeface or typewritten.

(4) Filing.

(a) The parties shall file a signed original and 7 copies of the petition for rehearing and objections thereto with the clerk of the supreme court.

(b) The petition for rehearing and objections thereto must contain a certificate of service on the opposing party.

(c) The petition for rehearing and objections thereto must contain a certificate verifying that the document's word count and words per page comply with section (3) of this rule.

History: En. Sup. Ct. Ord. No. AF 07-0016, July 3, 2007, eff. October 1, 2007; amd. Sup. Ct. Ord. No. AF 07-0016, April 26, 2011, eff. Oct. 1, 2011.

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From: Lensink, Andy [mailto:Lensink.Andy@epa.gov]
Sent: Monday, July 28, 2014 10:04 AM
To: Salo, Earl; Rauchway, Jon
Subject: conference call now

Earl and Jon:

My conference call number is not functioning right now for some reason.

I will call each of you and set up the conference call manually.

Thanks,

Andy

Andy Lensink

Senior Enforcement Attorney

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U.S. EPA Region VIII

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